IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

Bail Appl..No. 4836 of 2007()

[CRIME NO.277/07 OF SULTHANBATHERY POLICE STATION]

PETITIONERS/ACCUSED NOS.1 TO 7,17 & 16(UNDER JUDICIAL CUSTODY)

1. SOMAN, S/O.RAMANKUTTY, AGED 31,
   PUZHAKUNNIMMAL HOUSE, CHUZHALI, KALPETTA (A1).

2. SHIHAB, S/O.HAMZA, AGED 25,
   KANJIRATHINKAL HOUSE, NEERITTADI, PANAMARAM (A2).

3. SARADA, W/O.VELAYUDHAN, ANJANA NIVAS,
   GUDALLAI, KALPETTA (A3).

4. MALU, D/O PRAMEELA, KOZHIMOOLA,
   CHUNDAKUNNI COLONY, MUTHANGA P.O. (A4).

5. GOPALAN, S/O.MUKKAN, AGED 28,
   VELLAPPATT PANIYA COLONY, KUPPADI (A5).

6. KARUPPAN, S/O.CHAVANAN, AGED 52,
   VELLAPPATT COLONY, KUPPADI P.O.,
   SULTHAN BATHERY (A7).

7. KARUTHA, W/O BABU, VELLAPPATTU COLONY,
   KUPPADI P.O., SULTHAN BATHERY (A7).

8. KUTTIYAMMA, W/O.VARGHESE,
   POTTANIYIL HOUSE, BANK KAVALAM
   KAPPISET, PADICHIRA AMSOM (A17).

9. BINCY, D/O MATHEW, ANJANA NIVAS,
   GUDALLAI, KALPETTA P.O. (A16).

BY ADV. SRI.K.S.MADHUSOODANAN

RESPONDENTS: COMPLAINANT & FORMAL PARTY

1. STATE OF KERALA REP.BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
   SULTHAN BATHERY.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13/08/2007 ALONG WITH BA NO.4837/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.Nos.4836 & 4837 of 2007

Dated this the 13th day of August 2007

O R D E R

Applications for regular bail. The common petitioners - nine in all in these crimes face allegations in two separate crimes both registered inter alia under Section 307 read with 149 I.P.C. The alleged incident took place in quick succession of 15/6/2007. The petitioners have been arrested on different dates between 15/6/2007 and 21/6/2007. They remain in custody from those dates. The petitioners do allegedly belonging to an organisation by name 'Porattam'. Members of the said organisation allegedly conspired to unleash an attack on the house of the de facto complainant - one Pastor of the local church. They did so because of prior animosity. They allegedly felt that the de facto complainant had falsely implicated an adivasi juvenile in a serious crime unnecessarily. Suppressing the fact that he is a juvenile, proceedings were allegedly initiated against the said juvenile. This was the cause which allegedly prompted the accused persons and the others to enter into a conspiracy. In prosecution of the decision of the conspirators, the petitioners along with others allegedly went to the house of the said Pastor. There they are alleged to have committed the offence of mischief punishable under Section 427 I.P.C and the attempt to commit murder punishable under Section 307 I.P.C.

2. From the said scene of the crime, they allegedly went away. A police party on information did allegedly attempt to chase the offenders. At that point, the offenders allegedly attacked the members of the police party and caused injuries to them. In that incident also, it is alleged that the offenders had committed the offence punishable under Section 307 I.P.C.

3. The petitioners have been remaining in custody from 15/6/2007 to 21/6/2007 (they were arrested on different dates during this period). The learned counsel for the petitioner submits that even if the entire allegations were accepted, the attempt to raise allegations under Section 307 I.P.C must be held to be not justifiable. In as much as it is clear as day light that the miscreants whoever they be had all the time in the world to cause injuries to the occupants of the house of the de facto complainant and they had not indulged in any such violent physical acts against the occupants of the house of the de facto complainant, the allegation of 307 I.P.C as against the members of the police force raised is also without any justification, contends the learned counsel for the petitioner.

4. The learned Public Prosecutor opposes the application. The offenders had taken law into their own hands and no leniency can or need be shown to them, submits the learned Public Prosecutor.

5. I have considered all the relevant inputs. Case diaries have already been perused by me. I am satisfied, notwithstanding the

opposition by the learned Public Prosecutor that this is a fit case where subject to appropriate conditions which shall ensure the interests of a proper, efficient and expeditious investigation, the petitioners who have remained in custody from 15/6/2007 to 21/6/2007 till this day can now be directed to be released on bail.

6. In the result, this petition is allowed. The petitioners shall be released on bail in both cases on the following terms and conditions:

i) The petitioners shall execute bonds for Rs.50,000/- (Rupees fifty thousand only) in each case with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

ii) The petitioners shall make themselves available for interrogation before the investigating officer between 10 a.m and 12 noon on all Mondays and Fridays, for a period of three months from the date of release.

iii) The petitioners shall not enter the jurisdiction of Sulthanbathery police station for such period of three months except for the purpose of complying with condition No.ii) above.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007